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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

**OREGON PRESCRIPTION DRUG
MONITORING PROGRAM**, an agency of
the **STATE OF OREGON**,

Plaintiff,

v.

**UNITED STATES DRUG
ENFORCEMENT ADMINISTRATION**,
an agency of the **UNITED STATES
DEPARTMENT OF JUSTICE**,

Defendant.

Case No.: 3:12-cv-02023-HA

**DECLARATION OF JOHN DOE 4 IN
SUPPORT OF PLAINTIFFS-
INTERVENORS' MOTION FOR
SUMMARY JUDGMENT**

JOHN DOE 1, et al.,

Plaintiffs-Intervenors,

v.

**UNITED STATES DRUG
ENFORCEMENT ADMINISTRATION,**
an agency of the **UNITED STATES
DEPARTMENT OF JUSTICE,**

Defendant in Intervention.

I, John Doe 4,¹ hereby declare and state as follows:

1. I submit this declaration based on my personal knowledge in support of Plaintiffs-Intervenors' Motion for Summary Judgment, in the above-captioned case.

2. I am one of the plaintiff-intervenors in this action.

3. I am a medical student in the Portland area and a resident of Oregon.

4. I take prescription testosterone on a regular basis. Testosterone is classified in schedule III under the federal Controlled Substances Act.

5. This medication is prescribed by my Oregon-based physician and I obtain refills of my prescription at pharmacies in Oregon. As a result, my testosterone prescriptions are recorded by the Oregon Prescription Drug Monitoring Program ("PDMP"). I have requested and received a copy of my patient prescription history report from the PDMP, which contains a record of my testosterone prescriptions, including the date the prescription was written and dispensed, the quantity and form of the drug, my name, date of birth, and address, and information about my physician.

¹ This is not my real name. I am proceeding under a pseudonym in order to protect my constitutional right to privacy.

6. I was assigned female sex at birth, but I have come to identify strongly with a male gender identity.

7. Approximately three years ago I was diagnosed with Gender Identity Disorder, which is now called Gender Dysphoria (“GD”). GD is recognized as a medical condition by the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders. GD involves strong and persistent cross-gender identification and persistent discomfort about one’s assigned sex.

8. After I was diagnosed with GD, my physician recommended hormone replacement therapy, in the form of testosterone injections, to help me transition from female to male sex.

9. Hormone replacement therapy is a necessary part of my medical treatment and my ability to maintain my gender expression as male. I have consistently lived as a man since I started my transition.

10. I expect to continue using prescribed testosterone for the foreseeable future.

11. My prescription for testosterone comes in the form of bottles of the medication that I self-administer via injection once every two weeks. I refill my prescription approximately every four months.

12. I do not generally hide my status as a person engaged in the transition from female to male gender identity. However, my prescription information is private. Just because my doctor and pharmacist know that I take testosterone does not mean that I wish anybody else to know. Detailed information about my prescription for testosterone should remain between me and my doctor, and I do not want it shared with the public.

13. Further, although I have not kept my status secret, I know transgender people who take care to conceal their transgender identity to avoid discrimination or other harm.

14. I am aware that the Drug Enforcement Administration (“DEA”) claims the authority to obtain prescription records from the PDMP without a warrant. I believe the privacy protections created by Oregon law, including the requirement that law enforcement obtain a court order based on probable cause before requesting prescription records from the PDMP, are extremely important.

15. I do not want the DEA to access or obtain my prescription information because I take testosterone for a legal and medically necessary purpose and I consider information about my prescriptions to be private.

16. As a result of the recent media attention on illegal steroid use in sports, I believe law enforcement is more aggressively targeting steroid users. I fear that I may come under suspicion because I use testosterone.

17. It is already difficult for transgender men to obtain prescription testosterone. Testosterone suitable for injection cannot be dispensed by most regular retail pharmacies, and I must travel to an inconveniently located special compounding pharmacy to obtain my prescription. There is only one compounding pharmacy in the metropolitan Portland area that fills prescriptions for injectable testosterone. I feel like increased scrutiny by law enforcement, including the DEA, erects another obstacle to obtaining treatment.

18. If the DEA were allowed to obtain prescription records from the PDMP without a warrant, I would be fearful of being investigated or harassed without reason. I would feel like I was constantly looking over my shoulder, and would experience undue mental distress.

19. Because there is currently no alternative treatment for my GD that does not involve testosterone, I would not be able to avoid the DEA gaining easy access to my prescription information and the private medical information it reveals.

Pursuant to 28 U.S.C. § 1746, I hereby declare and state under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

DATED this 28 day of June, 2013.

John Doe 4

John Doe 4²

² As noted above, this is a pseudonym.